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December 22, 2020

BY ECF

The Honorable Loretta A. Preska
U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street - Room 2220
New York, New York 10007

Re: *Fontana, et al. v. Republic of Argentina*, No. 03 Civ. 08531 (LAP)

Dear Judge Preska:

This firm represents the Republic of Argentina (the “Republic”) in the above-captioned case. I write pursuant to the Court’s Order directing the Republic to “inform the Court why the documents referenced in counsel [for movant Guillermo Gleizer]’s letter (dkt. no. 110) should be filed under seal.” Order (Dec. 17, 2020), ECF No. 111.

Gleizer’s letter references a production made by the Republic (the “Production”), pursuant to a stipulation entered by the parties and so-ordered by the Court. Stipulation Regarding Limited Discovery (Aug. 25, 2020), ECF No. 106. Gleizer’s counsel has indicated to the Republic that he intends to file the entirety of the Republic’s 419-page Production in connection with his forthcoming motion for attorneys’ fees.

The Production is governed by a confidentiality agreement entered by the parties and so-ordered by the Court, which provides that if counsel for a party seeks to file portions of the Production marked confidential with the Court, those documents “shall be filed under seal, filed with redactions, or submitted to the Court in such manner as is agreed upon by the parties hereto (or ordered by the Court).” Stipulation and Order Governing Confidential Material ¶ 10 (Oct. 6, 2020), ECF No. 109. The Production consists of three components and the Republic addresses the confidentiality of each component below:

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- (i) **Documents relating to Case No. 35465 (2017) in the courts of the Province of Tierra del Fuego, Antarctica and South Atlantic Islands (Bates Numbers ARG-FON0000001–ARG-FON0000323) (the “Ushuaia Case File”).** The Ushuaia Case File was *not* designated as confidential by the Republic, and accordingly can be filed publicly.
- (ii) **An un-redacted copy of the Master Settlement Agreement, dated April 8, 2016, between Mariana Mori de Lopez and Rocio del Valle Lopez Mori (“Plaintiffs”), and the Republic (Bates Numbers ARG-FON0000324–ARG-FON0000333) (the “Settlement Agreement”).** The un-redacted Settlement Agreement was designated as confidential because it contains phone number and address information of Plaintiffs. Both parties have publicly filed the Settlement Agreement with such contact information redacted in the past. *See* Ex. A, Letter from Carmine D. Boccuzzi, Jr. (Nov. 6, 2018), ECF No. 69-1; Ex. 3, Decl. of Guillermo Gleizer (Nov. 28, 2018), ECF No. 77-3. The Republic has no objection to the re-filing of the Settlement Agreement on the docket with the same limited redactions to protect Plaintiffs’ personal information. *See* Fed. R. Civ. P. 5.2; *Brown v. Maxwell*, 929 F.3d 41, 48 n.22 (2d Cir. 2019) (implementing “minimal redactions to protect personally identifying information such as personal phone numbers”).
- (iii) **Email communications between the Republic and Plaintiffs prior to and subsequent to the Master Settlement Agreement’s February 8, 2016 date (Bates Numbers ARG-FON0000334–ARG-FON0000419) (the “Settlement Emails”).** The Settlement Emails, which attached the non-final settlement agreements, “do not carry a presumption of public access” since “the discussions and documents exchanged before an agreement has been reached . . . play a negligible role in the trial judge’s exercise of Article III judicial power.” *See U.S. v. Glens Falls Newspapers, Inc.*, 160 F.3d 853, 857-58 (2d. Cir. 1998) (holding that “the presumption of access to settlement negotiations, draft agreements, and conference statements is negligible to nonexistent”). Accordingly, the Republic respectfully requests that this third category of the Production be filed under seal.

We have conferred with counsel for Gleizer, and understand that Gleizer consents to these confidentiality parameters (*e.g.*, redaction of the Settlement Agreement and sealing of the Settlement Emails), without prejudice to his position on the relevance of the documents. Those parameters are reflected in the attached Exhibit 1.

Respectfully submitted,



Rahul Mukhi

cc: Counsel of Record (via ECF)

Counsel shall proceed as agreed and as outlined in Mr. Meyer's letter dated October 20, 2020 (dkt. no. 110). SO ORDERED.

 12/23/2020